

§ 263.80

12 CFR Ch. II (1–1–16 Edition)

Subpart E—Procedures for Issuance and Enforcement of Directives To Maintain Adequate Capital

§ 263.80 Purpose and scope.

This subpart establishes procedures under which the Board may issue a directive or take other action to require a state member bank, bank holding company, or a savings and loan holding company to achieve and maintain adequate capital.

[76 FR 56604, Sept. 13, 2011]

§ 263.81 Definitions.

(a) *Bank holding company* means any company that controls a bank as defined in section 2 of the BHC Act, 12 U.S.C. 1841, and in the Board's Regulation Y (12 CFR 225.2(b)) or any direct or indirect subsidiary thereof other than a bank subsidiary as defined in section 2(c) of the BHC Act, 12 U.S.C. 1841(c), and in the Board's Regulation Y (12 CFR 225.2(a)).

(b) *Capital Adequacy Guidelines* means those guidelines for bank holding companies and state member banks contained in appendices A and D to the Board's Regulation Y (12 CFR part 225), and in appendix A to the Board's Regulation H (12 CFR part 208), or any succeeding capital guidelines promulgated by the Board.

(c) *Directive* means a final order issued by the Board:

(1) Pursuant to ILSA (12 U.S.C. 3907(b)(2)) requiring a state member bank or bank holding company to increase capital to or maintain capital at the minimum level set forth in the Board's Capital Adequacy Guidelines or as otherwise established under procedures described in § 263.85; or

(2) Pursuant to HOLA (12 U.S.C. 1467a(g)(1)) requiring a savings and loan holding company to increase capital to or maintain capital at a certain level.

(d) *State member bank* means any state-chartered bank that is a member of the Federal Reserve System.

(e) *Savings and loan holding company* means any company that controls a savings association as defined in section 10 of the HOLA, 12 U.S.C. 1467a, and in the Board's Regulation LL (12 CFR 238.2) or any direct or indirect

subsidiary thereof other than a savings association subsidiary as defined in section 10 of the HOLA, 12 U.S.C. 1467a, and in the Board's Regulation LL (12 CFR 238.2).

[56 FR 38052, Aug. 9, 1991, as amended at 76 FR 56604, Sept. 13, 2011]

§ 263.82 Establishment of minimum capital levels.

The Board has established minimum capital levels for state member banks and bank holding companies in its Capital Adequacy Guidelines. The Board may set higher capital levels as necessary and appropriate for a particular state member bank or bank holding company based upon its financial condition, managerial resources, prospects, or similar factors, pursuant to the procedures set forth in § 263.85 of this subpart.

§ 263.83 Issuance of capital directives.

(a) *Notice of intent to issue directive.* If a state member bank or bank holding company is operating with less than the minimum level of capital established in the Board's Capital Adequacy Guidelines, or as otherwise established under the procedures described in § 263.85, or if the Board has determined that the current capital level of a savings and loan holding company is not adequate, the Board may issue and serve upon such state member bank, bank holding company, or savings and loan holding company written notice of the Board's intent to issue a directive to require the bank, bank holding company, or savings and loan holding company to achieve and maintain adequate capital within a specified time period.

(b) *Contents of notice.* The notice of intent to issue a directive shall include:

(1) The required minimum level of capital to be achieved or maintained by the institution;

(2) Its current level of capital;

(3) The proposed increase in capital needed to meet the minimum requirements;

(4) The proposed date or schedule for meeting these minimum requirements;

(5) When deemed appropriate, specific details of a proposed plan for meeting the minimum capital requirements; and